

CONTAGIOUS DISEASES.

JANUARY 15, 1897.—Referred to the House Calendar and ordered to be printed.

Mr. CURTIS, of Iowa, from the Committee on the District of Columbia, submitted the following

REPORT.

[To accompany H. R. 9023.]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 9023) to prevent the spread of contagious diseases in the District of Columbia, having had the same under consideration, recommend that the same do pass with the following amendments:

Insert after section 31 the following:

SEC. 32. That any person arrested in the District of Columbia for alleged violation of law, whose detention in a police station, workhouse, or jail, would, in the opinion of the health officer of said district, expose the occupants of any such police station, workhouse, or jail, to infection by any contagious disease aforesaid, may be confined in any hospital in which are treated patients suffering from such contagious disease as that by which said person is believed to be infected, or in such other place as may be designated by the court.

Number section 32 as 33.

The annexed report of the health officer of the District sufficiently explains the object of the proposed legislation.

The amendments reported by your committee are the amendments submitted by the health officer of the District and sanctioned by the Commissioners.

HEALTH DEPARTMENT, DISTRICT OF COLUMBIA,
Washington, December 15, 1896.

GENTLEMEN: Referring to a bill to prevent the spread of contagious diseases in the District of Columbia (H. R. No. 9023), I have the honor to submit the following report:

The restriction of contagious diseases in the District of Columbia is governed by the following laws and regulations, copies of which are attached hereto.

(1) An act of the legislative assembly entitled "An act for the prevention of disease in the District of Columbia," approved June 19, 1872.

(2) Rules and regulations of the board of health in regard to smallpox, legalized by joint resolution of Congress April 24, 1880, and again by act of Congress approved August 7, 1894.

(3) Regulations to prevent the spread of smallpox in the District of Columbia, promulgated by the Commissioners of the District of Columbia October 24 and November 9, 1894.

(4) An act to prevent the spread of scarlet fever and diphtheria in the District of Columbia, approved December 20, 1890, and regulations of the health officer made by virtue thereof.

An act for the prevention of diseases in the District of Columbia.—This act was passed by the late legislative assembly at a time when smallpox was epidemic, and refers only to "formidable epidemic infectious or contagious diseases." There has been no judicial interpretation of the diseases included by this law, but it has, by common

consent, been held to mean such diseases as are now termed major contagious diseases, viz, Asiatic cholera, smallpox, typhus fever, etc. This interpretation receives weight by the subsequent enactment of the law relating specifically to certain minor contagious diseases, viz, scarlet fever and diphtheria.

This act affixes certain penalties for certain acts. It is itself, however, incomplete, depending for its operation upon orders, regulations, and instructions which it authorizes (sec. 1) to be made whenever, in the judgment of the "board of health," the District of Columbia is "threatened with or affected by any formidable epidemic infectious or contagious disease." The subjects to be treated of in these orders, regulations, and instructions are specified in section 2. The act does not authorize the affixing of any penalties to such orders, regulations, or instructions; nor does it direct that the board of health enforce them, so that they may possibly be considered as advisory rather than mandatory, as will appear later in an opinion of the Hon. A. A. Birney, United States district attorney, in reference to certain other regulations made under similar authority.

The law itself is, therefore, incomplete. The orders, regulations, and instructions upon which it depends for its completion can only be promulgated in the actual presence of, or threatened invasion by, a formidable epidemic infectious or contagious disease, and must then be advertised for thirty days; and even when promulgated are of doubtful value.

Rules and regulations of the late board of health in regard to smallpox.—The late board of health, availing itself of the authority conferred by the act referred to above, and of the existence of an epidemic of smallpox, promulgated certain regulations June 19, 1872, which were amended December 26, 1872, and February 14, 1873. These regulations were entirely in harmony with the accepted sanitary teachings of that day. Some of them are at present, however, known to be of no value, and others positively harmful.

These regulations have been twice legalized by Congress, as before stated, and now "have the same force and effect within the District of Columbia as if enacted by Congress in the first instance" (act of August 7, 1894). But there is not and never has been any penalty for their violation.

Regulations to prevent the spread of smallpox in the District of Columbia, issued by the Commissioners of the District of Columbia.—During the outbreak of smallpox in this District in the years 1894-95, in view of the impossibility of enforcing existing regulations in reference to that disease, because of the absence of any penalty clause, the Commissioners promulgated additional regulations under the joint resolution of Congress of February 26, 1892, authorizing the promulgation of "such reasonable and usual police regulations" as the Commissioners deem necessary "for the protection of lives, limbs, health, comfort, and quiet of all persons, and the protection of all property." The validity of these regulations is open, however, to serious question, in view of the decision of the police court that any act or condition restricted by act of Congress can not be further restricted by regulations of the Commissioners, and for other reasons.

An act to prevent the spread of scarlet fever and diphtheria in the District of Columbia.—The following opinion of the Hon. A. A. Birney, United States attorney for the District of Columbia, indicates the value, if any, of this act, and of the regulations made by virtue thereof, and the need for its amendment:

OFFICE UNITED STATES ATTORNEY, DISTRICT OF COLUMBIA,

February 19, 1896.

DEAR SIR: I have before me your letter of February 15, in which you say that, under your direction, an application had that day been made for a warrant of arrest, which warrant my assistant at the police court had declined to allow to issue; and ask if his decision meets with my approval.

Upon investigation I learn that the case in question was this: A physician filed a death certificate stating the cause of death of his patient to have been "membranous croup." He had not previously reported the existence of this disorder in the patient. Application is made for his arrest for violation of the second section of the act of Congress of December 20, 1890, entitled "An act to prevent the spread of scarlet fever and diphtheria in the District of Columbia." This section provides, in effect, that it shall be the duty of every practicing physician to make report to the health officer "immediately after such practicing physician becomes aware of the existence of any case of scarlet fever or diphtheria under his charge," and a penalty is provided for his neglect to make such report. It will be observed that the only cases provided for are cases of scarlet fever and diphtheria. Section 3 of the act requires physicians in attendance upon cases of scarlet fever or diphtheria to exercise such reasonable precautions to prevent the spread of said diseases as may be prescribed by the health officer of the District of Columbia in regulations. This section and section 6 of the same act impliedly give authority to the health officer to prescribe regulations which are to be respected by physicians generally, but no part of the

act provides any penalty whatever to be imposed upon any practitioner who shall violate these regulations or refuse to be bound by them. The only penalties provided for in the act are, (1) failure to report cases of scarlet fever or diphtheria; (2) the giving of a false certificate; and (3) the visiting of schools, seminaries, or colleges by convalescents from diphtheria or scarlet fever who have not provided themselves with certificates of recovery.

Section 3 has attempted to provide penalties (not affecting physicians, however), but is so confused that, in my judgment, it is incapable of being enforced in a court of justice.

Under the authority of this act, as stated above, the health officer has issued certain regulations, and has assumed by the second to declare, as a matter of law, that the term "diphtheria," as used in the act, "shall be held to include membranous croup, unless," etc. I find no authority whatever for this action of the health officer, and I am therefore of the opinion that such declaration, going as it does far beyond the terms of the statute, is void. As I have above indicated, however, in my opinion no liability whatever attaches in any case for violation only of the regulations.

If it can be made to appear by evidence that the patient in the case complained of died of diphtheria, and that the physician in charge knew it to be a case of diphtheria, and with such knowledge failed to report it to the health officer, my assistant has instructions to cause a warrant to be issued forthwith for his arrest. But in the absence of such evidence (and I am informed that no such evidence was brought to the attention of my assistant) it is my opinion that no warrant should issue, since the proceedings could not possibly be sustained.

With great respect, I am, dear sir, yours, very truly,

A. A. BIRNEY,
United States Attorney, District of Columbia.

Dr. WILLIAM C. WOODWARD,
Health Officer, District of Columbia.

No penalty, it appears, is fixed for the removal or mutilation of the warning signs, which the act requires to be displayed; no penalty for failure to properly isolate the patient; none for failure or refusal to disinfect; and it is even doubtful whether a person actually suffering from scarlet fever or diphtheria could be punished for exposing himself on the public streets.

The frequency with which attempts have been made to prevent the spread of contagious diseases in this District by enacting laws and regulations in reference thereto indicates that the necessity for such legislation has been abundantly proven. The law at present under consideration has been prepared after a careful study of similar laws in force in other cities, and will, it is believed, accomplish what previous enactments have failed to do. Such a measure must necessarily be framed so as to reach and control those who are ignorant of the dangers surrounding cases of contagious disease, and who therefore willfully expose others to contagion; and must be broad and at the same time more or less rigid. It should be drafted so as to reduce to a minimum the personal element in its administration. An effort has been made to accomplish all of this.

The requirements of the proposed law are simply, (1) the report of cases of contagious diseases, (2) the placarding of infected premises as a warning to the public, (3) the isolation of those affected by such diseases and of those exposed to them, (4) the disinfection of infected premises, (5) the vaccination of citizens under certain specified conditions.

The health department recommends that this law be passed. The effort made to secure more authority for this department in the management of the diseases named is solely in the interest of the public welfare, the personal interests of those connected therewith dictating the reduction of authority as much as possible, since their work and responsibility are diminished in proportion thereto.

Very respectfully,

WM. C. WOODWARD, M. D.,
Health Officer.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA.

REPORT OF THE COMMITTEE ON THE JUDICIARY

IN RESPONSE TO A RESOLUTION PASSED BY THE HOUSE OF REPRESENTATIVES

ON APRIL 18, 1855

THE COMMITTEE ON THE JUDICIARY, IN OBEYANCE TO A RESOLUTION PASSED BY THE HOUSE OF REPRESENTATIVES ON APRIL 18, 1855, HAVE THE HONOR TO SUBMIT TO YOU THE FOLLOWING REPORT:

IN THE MATTER OF THE PETITION OF THE CITIZENS OF THE DISTRICT OF COLUMBIA, FOR THE REPEAL OF AN ACT OF CONGRESS, PASSED IN 1800, ENTITLED "AN ACT TO ESTABLISH A COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA."

THE PETITIONERS PRAY THAT THE ACT MAY BE REPEALED, AND THAT THE COURT MAY BE DISMISSED. THE PETITIONERS STATE THAT THE ACT IS UNCONSTITUTIONAL, AND THAT THE COURT IS AN UNNECESSARY AND EXPENSIVE INSTITUTION. THE PETITIONERS ALSO STATE THAT THE ACT IS A VIOLATION OF THE PRINCIPLES OF FEDERALISM, AND THAT IT IS AN ATTEMPT TO CONCENTRATE ALL THE POWER OF THE GOVERNMENT IN THE HANDS OF A SINGLE BODY.